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**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA**

GEORGE SCHULZ, an individual; PABLO ) CASE NO. 09 CV 0017 LAB (AJB)  
 CARDONA, an individual on behalf of )  
 himself, and on behalf of all persons ) [Consolidated with 09 CV 2081]  
 similarly situated, )

Plaintiffs,

Judge: Hon. Larry A. Burns  
 Magistrate: Hon. Anthony J. Battaglia

vs.

QUALXSERV, LLC, a Delaware Company;  
 WORLDWIDE TECHSERVICES, LLC, a  
 Delaware Company, and DOES 1 through  
 100, inclusive,

Defendants.

**CONSOLIDATED COMPLAINT FOR UNPAID  
 WAGES, UNPAID OVERTIME WAGES,  
 LIQUIDATED DAMAGES, STATUTORY AND  
 CIVIL PENALTIES, UNLAWFULLY WITHHELD  
 WAGES, MINIMUM WAGES/OFF-THE-CLOCK,  
 UN-REIMBURSED BUSINESS-RELATED  
 EXPENSES, ATTORNEYS' FEES AND COSTS**

[29 U.S.C. §§ 206, 207, 211(c), 216(b); Cal. Lab.  
 Code, §§ 226(a), 2699, 226.7, 510, 512, 516, 1194,  
 1194.2, 1197, 2802, 2804; and Cal. Bus. & Prof.  
 Code, §§ 17200-17208]

**DEMAND FOR JURY TRIAL**

**COLLECTIVE CLASS AND REPRESENTATIVE  
 ACTION**

[29 U.S.C. § 216(b); FRCP 23; Cal. Bus. & Prof.  
 Code, § 17200; Cal. Lab. Code, § 2699]

## **I. JURISDICTION**

1  
2           1.       This Court has jurisdiction over Plaintiffs' federal law claims pursuant to the Fair Labor  
3 Standards Act of 1938 ("FLSA"), 29 U.S.C. § 216(b), 28 U.S.C. §§ 1331 and 1337 (federal question  
4 jurisdiction), and 28 U.S.C. § 1332 (CAFA jurisdiction). Pursuant to 28 U.S.C. § 1367(a), this Court has  
5 supplemental jurisdiction over Plaintiffs' state law claims because such claims are so related to the  
6 federal claims that they form part of the same case or controversy between Plaintiffs and Defendant. The  
7 action is brought as a class action pursuant to Federal Rules of Civil Procedure, rule 23 on behalf of a  
8 class that exceeds 100 people, that involves more than \$5,000,000 in controversy, and where the  
9 citizenship of at least one member of the class is diverse from that of Defendants.

## **II. INTRODUCTION**

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11  
12           2.       This action is brought as a hybrid collective and representative class action to recover for  
13 unpaid wages, unpaid overtime compensation, unpaid and unlawfully withheld wages, un-reimbursed  
14 business-related expenses, meal period violations, rest break violations, liquidated damages, restitution,  
15 as well as other statutory and civil penalties and damages owed to Plaintiffs and all other Technician  
16 Employees employed by, or formerly employed by, QualxServ, LLC, Worldwide TechServices, LLC,  
17 and Does 1 through 100, as well as their subsidiaries, predecessors and affiliated companies (collectively  
18 "QLX/WWT" or "Defendants") pursuant to the Fair Labor Standards Act of 1938 ("FLSA"), 29 U.S.C.  
19 § 216(b), Federal Rules of Civil Procedure, rule 23, California Labor Code sections 201-203, 226, 226.7,  
20 510, 512, 1194, 1194.2, 1197, 2699 and 2802, IWC Wage Order Nos. 4-2000 and 4-2001, and California  
21 Business & Professions Code sections 17200-17208 ("UCL"). The employees employed at QLX/WWT  
22 with the titles of Service Technician, Tech, Technician, Field Service Representative, and Service Partner  
23 perform the same primary duties and are collectively referred to herein as "Technician Employees."  
24 Plaintiffs George Schulz and Pablo Cardona ("PLAINTIFFS") bring this collective and class action on  
25 behalf of themselves and a class consisting of all individuals who are or previously were employed by  
26 Defendants QLX/WWT in California, in positions entitled "Service Technician," "Tech," "Technician,"  
27 "Field Service Representative," "Service Partner" or in any other similarly situated position during the  
28 Liability Period.

1           3.       During the four years preceding the filing of the original *Schulz v. QualxServ, LLC*  
2 Complaint, to the present and ending on the date as determined by the Court (the "Liability Period" or  
3 "Class Period"), Defendants had, and continue to have a policy and practice of paying Technician  
4 Employees a per incident rate of between \$28 and \$ 38 per call. However, prior to being sent to the field,  
5 all Technician Employees had to complete online certification testing. Once they passed, they would be  
6 allowed to go into the field for service calls. Each call entailed numerous, time-consuming steps,  
7 including: logging onto to the internet portal to download assignments, setting up appointments with the  
8 clients, picking up the parts for the clients, making the service call, returning parts, paperwork, and  
9 logging back onto the internet portal to close assignments. Moreover, Technician Employees were  
10 required to use their own cars, their own cell phones, their own laptops with internet capabilities in the  
11 field, cleaning supplies and tools, as well as printing materials. Both the steps to be taken for service  
12 calls and the list of necessary supplies are meticulously documented in Defendants' own employee  
13 manual. This per incident payment was supposed to compensate the employee for hours worked on the  
14 assignment, travel time, parking and gas. No additional reimbursements were provided for other out-of-  
15 pocket expenses, which included, but was not limited to: wear and tear on the automobile, additional  
16 accident insurance premiums, cell phones, laptops, internet access, cleaning supplies, tools, paper, printer  
17 and printing materials. However, in order to perform their duties, Technician Employees needed and  
18 were required to have, all of these items. This lump-sum method, designed to reimburse employees their  
19 work-required expenses was insufficient to provide full reimbursement for actual business-related  
20 expenses necessarily incurred under California Labor Code section 2802.

21           4.       Defendants' lump-sum method does not identify which portion of Plaintiffs' compensation  
22 is wages and which portion is intended to reimburse plaintiffs' for incurred business-related expenses.  
23 California law requires an employer utilizing a lump-sum compensation plan to establish some means  
24 for the employee to identify the portion of overall compensation that is intended as expense  
25 reimbursement. (Cal. Lab. Code, § 2802.) California law also requires that the amounts identified as  
26 expense reimbursement are sufficient to fully reimburse the employees for all expenses actually and  
27 necessarily incurred. Defendants, however, utilize a lump-sum method that does not differentiate  
28 between wages and expense reimbursement so that Plaintiffs cannot determine what portion of their

1 overall compensation was intended to reimburse them for business-related expenses. Defendants also  
2 never conducted any study or analysis to determine whether or not the lump-sum amounts adequately  
3 reimburse Plaintiffs for the expenses they actually and necessarily incurred.

4 5. California law also requires an employer utilizing a lump-sum compensation plan to  
5 account for any tax consequences that result from the employer's choice of reimbursement method to  
6 ensure that employees are reimbursed for all incurred expenses. (Cal. Lab. Code., § 2802.) In  
7 compensating Plaintiffs pursuant to its lump-sum method, Defendants calculated taxable withholding  
8 based on the entire lump-sum rate payable under its plan. As a result, Plaintiffs paid taxes on both the  
9 amount intended by Defendants as wages as well as the amount intended to reimburse Plaintiffs for  
10 incurred business-related expenses. The resulting overpayment of taxes reduces the intended  
11 reimbursement to an amount not accounted for by Defendants so that its lump-sum method does not and  
12 cannot fully reimburse Plaintiffs for expenses as required by California law.

13 6. Defendants unlawfully passed operating expenses onto their employees through this lump-  
14 sum method. Moreover, the employees were often required to take a longer amount of time to complete  
15 an assignment than the Defendants allocated, thus making the lump-sum rate insufficient to provide full  
16 reimbursement for the time and/or the expenses that the employee necessarily incurred. Technician  
17 Employees did not and do not qualify as exempt employees under the overtime provisions of the Fair  
18 Labor Standards Act (FLSA) because they work in an industry that does not qualify as having the "retail"  
19 service concept (computer service technician), are not primarily compensated on a salary basis, and do  
20 not exercise, as part of their primary duties, discretion and independent judgment, nor do they perform  
21 work directly related to the general business operations of QLX/WWT or its customers. Additionally,  
22 they do not fall under the highly-skilled computer-related occupation exemption because Technician  
23 Employees are engaged in the repair and/or maintenance of computer hardware and related equipment.

24 7. During the Liability Period, including when Technician Employees were paid on a "per  
25 incident rate," Defendants also had, and continue to have, a willful policy and practice of requiring  
26 Technician Employees, including PLAINTIFFS, to work substantially in excess of forty (40) hours per  
27 week without paying them proper overtime compensation as required by the FLSA, 29 U.S.C. § 207 and  
28 California Labor Code sections 510 and 1194. In addition to violating the foregoing provisions of the

1 FLSA and the California Labor Code, this constitutes an unlawful and unfair business practice under  
2 California Business & Professions Code sections 17200-17208.

3 8. During the Liability Period, including when Technician Employees were paid on a "per  
4 incident rate," Defendants also had, and continue to have a policy and practice of requiring their  
5 Technician Employees, including PLAINTIFFS, to work hours substantially in excess of eight (8) hours  
6 per day without paying them proper overtime compensation as required by California Labor Code section  
7 510. Moreover, Technician Employees were often required to take a longer amount of time to complete  
8 an assignment than the Defendants allocated, thus the lump-sum rate was insufficient to provide proper  
9 payment and reimbursement for the time and/or the expenses that the employee necessarily incurred.  
10 Technician Employees did not, and do not, qualify for the "highly-skilled computer-related occupation  
11 exemption" because Technician Employees are engaged in the repair and/or maintenance of computer  
12 hardware and related equipment. Technician Employees are thus entitled to overtime compensation.  
13 In addition to violating California Labor Code section 510, this constitutes an unlawful and unfair  
14 business practice under California Business & Professions Code sections 17200-17208.

15 9. During the Liability Period, Defendants also had, and continue to have a policy and  
16 practice of denying their Technician Employees, including PLAINTIFFS, meal break periods as required  
17 by California Labor Code sections 226.7 and 512, and IWC Wage Order Nos. 4-2000 and 4-2001.  
18 PLAINTIFFS and all other Technician Employees are accordingly entitled to an additional hour of pay  
19 at their regular rate for each day they were not afforded a lawful meal period. This also constitutes an  
20 unlawful and unfair business practice under California Business & Professions Code sections  
21 17200-17208.

22 10. During the Liability Period, Defendants also had, and continue to have, a policy and  
23 practice of not timely paying overtime compensation and other wages to their Technician Employees,  
24 including PLAINTIFFS, within 72 hours of the conclusion of their employment with Defendants, thereby  
25 entitling these employees to statutory penalties under California Labor Code sections 201-203.

26 11. During the Liability Period, Defendants also had, and continue to have, a policy and  
27 practice of knowingly and intentionally failing to furnish to Technician Employees, including  
28 PLAINTIFFS, to their injury, an itemized statement at the time of each payment of wages, in writing

1 showing all of the information required by California Labor Code section 226, subdivision (a), including,  
2 but not limited to, the following: (1) the total hours actually worked by the Technician Employee; (2)  
3 some method or formula to identify the amount of the combined employee compensation payment that  
4 is intended to provide expense reimbursement; and (3) all true regular and overtime rates in effect during  
5 the pay period and the corresponding correct number of hours worked at rate by the Technician  
6 Employees. PLAINTIFFS and all other Technician Employees are accordingly entitled to recover the  
7 greater of all actual damages or the statutory penalties as set forth in California Labor Code section 226,  
8 subdivision (e). In addition to violating California Labor Code section 226, subdivision (a), this  
9 constitutes an unlawful and unfair business practice under California Business & Professions Code  
10 sections 17200-17208.

11 12. Defendants did not pay Technician Employees, including PLAINTIFFS, such overtime  
12 compensation, wages for missed meal and rest break periods, and did not provide Technician Employees,  
13 including PLAINTIFFS, with such itemized statements because Defendants improperly treated them as  
14 "exempt" employees under applicable wage and hour laws and/or because Defendants willfully elected  
15 to ignore and violate applicable wage and hour laws. Defendants created a policy and practice of  
16 intentional deception, in an attempt to avoid having to compensate Technician Employees for overtime,  
17 by adopting a practice or policy of paying a per incident rate of pay that had the illusion of being an  
18 enhanced compensation payment but in reality was illegal compensation that failed to pay for all time  
19 worked, and failed to discharge its reimbursement obligations. This sham "enhanced compensation  
20 payment" had the effect of denying Technician Employees proper pay, overtime pay, and expense  
21 reimbursement for employee expenses that were necessarily incurred to discharge their duties. This was  
22 a willful violation of federal and state law. Accordingly, PLAINTIFFS seek to recover unpaid overtime  
23 compensation, including the interest thereon, restitution, statutory and civil penalties, reasonable  
24 attorneys' fees, and litigation costs on behalf of themselves and all similarly situated current and former  
25 Technician Employees who worked for Defendants ("class members") pursuant to the FLSA, 29 U.S.C.  
26 §§ 206, 207, 211(c), 216(b), California Labor Code sections 201-203, 226, 226.7, 510, 512 and 1194,  
27 IWC Wage Order Nos. 4-2000 and 4-2001, and California Business & Professions Code sections  
28 17200-17208. PLAINTIFFS and all similarly situated current and former Technician Employees who

1 "opt-in" pursuant to the FLSA, 29 U.S.C. § 216(b), also seek liquidated damages or, in the alternative,  
2 pre-judgment interest. Furthermore, PLAINTIFFS, on behalf of themselves, the general public, and the  
3 class members, also seek injunctive relief and restitution, as well as class-wide restitution of all unpaid  
4 and unlawfully withheld overtime compensation, and all other related wages and penalties, as well as  
5 restitution of all out-of-pocket business-related expenditures, pursuant to California Business &  
6 Professions Code sections 17200-17208.

7 13. PLAINTIFFS request that the Court order notice to all similarly situated current and  
8 former Technician Employees who worked for Defendants informing them of the pendency of this action  
9 and their right to "opt-in" to this lawsuit pursuant to the FLSA, 29 U.S.C. § 216(b), for the purpose of  
10 seeking overtime compensation, unpaid wages, expense reimbursement, penalties, and liquidated  
11 damages as alleged herein. PLAINTIFFS will also seek certification pursuant to Federal Rules of Civil  
12 Procedure, rule 23, of the Technician Employee class with Court-approved notice.

### 13 14 **III. VENUE**

15 14. Venue is proper in this Court and judicial district under 28 U.S.C. § 1391 because  
16 Defendants conduct and conducted substantial business within this judicial district and maintain offices  
17 in this judicial district, (ii) the causes of action alleged herein arose in whole or in part in this judicial  
18 district, and (iii) Defendants committed wrongful conduct against members of the class in this district.

### 19 20 **IV. PARTIES**

#### 21 **Plaintiffs**

22 15. Representative Plaintiff, George Schulz, brings claims on behalf of himself, the general  
23 public, and in a representative capacity on behalf of all similarly situated Technician Employees.

24 (a) Plaintiff George Schulz worked as a Technician Employee for Defendants starting  
25 in or about December of 2006 through about August 2008.

26 (b) From about December of 2006 until his departure in or about August of 2008,  
27 Plaintiff Schulz, like other similarly situated Technician Employees, was paid at a per incident rate of  
28 \$32 per closed ticket. This position did not provide any additional reimbursements, despite the fact that



1 Plaintiff Schulz was required to provide his own car, cell phone and/or pager, laptop and other  
2 tools/supplies in order to complete the daily tasks of the position. The per incident rate also did not  
3 compensate Plaintiff Schulz for time worked both before his first assignment and after his last. Plaintiff  
4 Schulz also was subjected to income tax withholdings from all amounts paid, even those amounts  
5 intended by Defendants to reimburse Schulz for business-related expenses. This resulted in a failure to  
6 fully reimburse Schulz for business-related expenses under California Labor Code section 2802. Plaintiff  
7 Schulz was similarly not compensated for mandatory meetings, all in violation of both federal and  
8 California law.

9 (c) During the Liability Period, including when he was paid on a per incident basis,  
10 Plaintiff Schulz regularly worked in excess of eight (8) hours per day and forty (40) hours per week, but  
11 was not paid overtime compensation for hours worked in excess of eight (8) hours per day and forty (40)  
12 hours per week in violation of both federal and California law. The primary duties of Plaintiff Schulz  
13 and other Technician Employees involve the performance of routine tasks that have been determined by  
14 the Department of Labor to be non-exempt duties.

15 (d) During the Liability Period, Plaintiff Schulz was not afforded meal breaks in  
16 accordance with California Labor Code section 512. Plaintiff Schulz regularly worked in excess of five  
17 (5) hours per day and was not afforded an uninterrupted 30 minute meal period in which he was relieved  
18 of all duties. He regularly worked in excess of ten (10) hours a day and was not afforded a second  
19 half-hour meal period in which he was relieved of all duties. Defendants also did not timely pay  
20 overtime compensation, and other related unpaid wages and penalties due to Plaintiff Schulz at the  
21 conclusion of his employment in violation of California Labor Code sections 201-203.

22 (e) During the Liability Period, Defendants failed to provide Plaintiff Schulz  
23 uninterrupted rest periods of not less than ten (10) minutes as required in violation of California law,  
24 including but not limited to, California Labor Code sections 226.7 and 516 and IWC Wage Order 4-2001,  
25 and failed to pay Plaintiff for those rest periods not provided, plus statutory wages and related sums.  
26 Defendants also did not timely pay overtime compensation, and other related unpaid wages and penalties  
27 due to Plaintiff Schulz at the conclusion of his employment in violation of California Labor Code  
28 sections 201-203.



1 (f) During the Liability Period, Defendants did not furnish to Plaintiff Schulz, at the  
2 time of each payment of wages, an itemized statement in writing showing all of the information required  
3 by California Labor Code section 226(a), including, but not limited to, (1) the total hours worked by  
4 Plaintiff Schulz, (2) all applicable hourly rates in effect during the pay period and the corresponding  
5 number of hours worked at each hourly rate by Plaintiff Schulz, and (3) the method or formula  
6 identifying the amount of the employee compensation that is intended to provide expense reimbursement,  
7 all in violation of California Labor Code section 226, subdivision (a).

8 16. Representative Plaintiff, Pablo Cardona brings claims on behalf of himself, the general  
9 public, and in a representative capacity on behalf of all similarly situated Technician Employees.

10 (a) Plaintiff Pablo Cardona worked as a Technician Employee for Defendants from  
11 about October of 2007 through about April of 2008.

12 (b) From about October of 2007 until his departure in or about April of 2008, Plaintiff  
13 Cardona, like other similarly situated Technician Employees, was paid at a per incident rate of \$38 per  
14 call. This position did not provide any additional reimbursements, despite the fact that Plaintiff Cardona  
15 was required to provide his own car, cell phone and/or pager, laptop and other tools/supplies in order to  
16 complete the daily tasks of the position. The per incident rate also did not compensate Plaintiff Cardona  
17 for time worked both before his first assignment and after his last. Plaintiff Cardona also was subjected  
18 to income tax withholdings from all amounts paid, even those amounts intended by Defendants to  
19 reimburse Cardona for business-related expenses. This resulted in a failure to fully reimburse Cardona  
20 for business-related expenses under California Labor Code section 2802. Plaintiff Cardona was similarly  
21 not compensated for mandatory meetings, all in violation of both federal and California law.

22 (c) During the Liability Period, including when he was paid on a per incident basis,  
23 Plaintiff Cardona regularly worked in excess of eight (8) hours per day and forty (40) hours per week,  
24 but was not paid overtime compensation for hours worked in excess of eight (8) hours per day and forty  
25 (40) hours per week in violation of both federal and California law. The primary duties of Plaintiff  
26 Cardona and other Technician Employees involve the performance of routine tasks that have been  
27 determined by the Department of Labor to be non-exempt duties.

28 / / /

1 (d) During the Liability Period, Plaintiff Cardona was not afforded meal breaks in  
2 accordance with California Labor Code section 512. Plaintiff Cardona regularly worked in excess of five  
3 (5) hours per day and was not afforded an uninterrupted 30 minute meal period in which he was relieved  
4 of all duties. He regularly worked in excess of ten (10) hours a day and was not afforded a second  
5 half-hour meal period in which he was relieved of all duties. Defendants also did not timely pay  
6 overtime compensation, and other related unpaid wages and penalties due to Plaintiff Cardona at the  
7 conclusion of his employment in violation of California Labor Code sections 201-203.

8 (e) During the Liability Period, Defendants failed to provide Plaintiff Cardona  
9 uninterrupted rest periods of not less than ten (10) minutes as required in violation of California law,  
10 including but not limited to, California Labor Code sections 226.7 and 516 and IWC Wage Order 4-2001,  
11 and failed to pay Plaintiff for those rest periods not provided, plus statutory wages and related sums.  
12 Defendants also did not timely pay overtime compensation, and other related unpaid wages and penalties  
13 due to Plaintiff Cardona at the conclusion of his employment in violation of California Labor Code  
14 section 201-203.

15 (f) During the Liability Period, Defendants did not furnish to Plaintiff Cardona, at the  
16 time of each payment of wages, an itemized statement in writing showing all of the information required  
17 by California Labor Code section 226(a), including, but not limited to, (1) the total hours worked by  
18 Plaintiff Cardona, (2) all applicable hourly rates in effect during the pay period and the corresponding  
19 number of hours worked at each hourly rate by Plaintiff Cardona, and (3) the method or formula  
20 identifying the amount of the employee compensation that is intended to provide expense reimbursement,  
21 all in violation of California Labor Code section 226, subdivision (a).

## 22 **Defendants**

23 17. Defendant QualxServ, LLC, is a Delaware company engaged in technology deployment  
24 and field maintenance services for leading technology partners.

25 18. On January 27, 2010, QualxServ, LLC announced that it is re-launching the company as  
26 Worldwide TechServices, LLC. This was a change in name only, therefore, QualxServ, LLC's new  
27 name is Worldwide TechServices, LLC. The new branding and logo will appear in all company  
28 advertising, documentation, and client communications. A newly re-branded website and URL at

1 [www.wwts.com](http://www.wwts.com) was launched, featuring improved documentation, functionality, search functions, maps,  
2 language support and additional tools. Worldwide TechServices, LLC continues to employ certain  
3 individuals who were  
4 employed when the company operated as QualxServ, LLC. The transition has been described by the  
5 company as simply a re-branding.

6 19. Defendant Worldwide TechServices, LLC is the successor in interest to QualxServ, LLC.  
7 Defendant Worldwide TechServices, LLC operates in the same manner and performs the same business,  
8 with the same employees as QualxServ, LLC. Defendant Worldwide TechServices, LLC continues to  
9 operate at the same principal place of business as QualxServ, LLC, located at 836 North Street,  
10 Tweksbury, Massachusetts. As a result of the corporate name change, Defendant Worldwide  
11 TechServices, LLC owns all assets and liabilities of Defendant QualxServ, LLC, including the liabilities  
12 to PLAINTIFFS and the Class as alleged in this action. Collectively, Defendants QualxServ, LLC and  
13 Worldwide TechServices, LLC are referred to as “QLX/WWT.” Defendants QLX/WWT were the  
14 employer of PLAINTIFFS and is, or was, the current and/or former employer of the putative Class as  
15 hereinafter defined during the class period.

16 20. QLX/WWT operates as a privately held entity and employs approximately 2,000 people  
17 throughout the United States in most major metropolitan areas, with nearly 150 service locations  
18 throughout the nation. QLX/WWT is headquartered in Tewksbury, Massachusetts, but has been doing  
19 business in the State of California during the Liability Period, and is subject to the requirements of the  
20 FLSA, California's labor laws, and the UCL. QLX/WWT are jointly and severally liable for their own,  
21 and their predecessors', affiliates', corporate parents', joint venturers', and subsidiaries' violations of the  
22 FLSA, California's labor laws, and the UCL. QLX/WWT are in the business of providing technological  
23 support and servicing, mostly for Dell and IBM laptops, to the public nationwide, and Defendants  
24 employed PLAINTIFFS and Technician Employee class members during the Liability Period.

25 21. Defendants' founders and executive officers directed, authorized, ratified, and/or  
26 participated in the conduct that gives rise to the claims asserted herein, and derived personal financial  
27 benefit from such conduct.

28 22. PLAINTIFFS are ignorant of the true names or capacities of the Defendants sued herein

1 under the fictitious named DOES 1 through 100, inclusive.

2       23. Each Defendant acted in all respects pertinent to this action as the agent of the other  
3 Defendants, carried out a joint scheme, business plan, or policy in all respects pertinent hereto, and the  
4 acts of each Defendant are therefore legally attributable to the other Defendants. There may be one or  
5 more additional Defendants not named in this Complaint that were the agents, servants, and/or employees  
6 of QLX/WWT who were acting on behalf of Defendants within the course and scope of his, her, or its  
7 authority as the agent, servant and/or employee of Defendants and were in some manner responsible for  
8 the conduct and injuries alleged herein and directly participated in the illegal practices alleged herein.  
9 Consequently, the Defendants named herein and such other persons or entities, whose identity is  
10 unknown at this time, are jointly and severally liable to the PLAINTIFFS and the other members of the  
11 Class, for the losses sustained as a proximate result of Defendants' conduct as herein alleged.

12  
13                   **V. FACTUAL BACKGROUND FOR ALL CLAIMS**

14       24. During the Liability Period, Defendants operated as a privately held company that  
15 employs approximately 2,000 people nationwide, with nearly 150 service locations throughout the United  
16 States. QLX/WWT sends out field technicians or Technician Employees to service mostly Dell laptops,  
17 with service locations throughout the United States in most metropolitan areas. Defendants employ and  
18 have employed numerous Technician Employees, including PLAINTIFFS, to service computers at both  
19 commercial and residential locations. Each class member worked for and was employed by Defendants  
20 as a full-time, part-time and/or temporary Service Technician or QualxServ Service Partner.  
21 PLAINTIFFS are informed and believe and on that basis allege that, during the Liability Period,  
22 Defendants have employed hundreds of persons as Technician Employees throughout the state of  
23 California.

24       25. QLX/WWT conducted and continues to conduct substantial and regular business  
25 throughout California and also is an enterprise that affects commerce by engaging in the enterprise of  
26 providing services through interstate commerce and by regularly and recurrently receiving or transmitting  
27 interstate communications. QLX/WWT's head quarters and corporate residence is in Massachusetts, but  
28 it has service locations throughout the United States.

## **Duties of Technician Employees**

26. Technician Employees take service calls for QLX/WWT Client Services Organizations, both in commercial and residential locations. Their duties consist of purely repair, service, and maintenance work on computers and other technology products, according to pre-established guidelines and procedures. Technician Employees do not perform highly-skilled computer related work, nor do they perform any significant discretionary decision making, nor the exercise of independent judgment, nor the supervision of other employees. Technician Employees are not required to have a college degree or graduate degree to qualify them for employment. Technician Employees perform all duties according to established company policies, protocols and procedures, as directed by QLX/WWT.

27. The job duties of Technician Employee class members include responding to calls, contacting customers, picking up parts, then driving to location, making repair and updating all service calls assigned each morning and evening when closing calls. Both the process and time frames for taking calls, that all techs working for QLX/WWT are required to follow are set forth in the employee guidebook which was “designed for all QLX/WWT Technicians to provide easy access to processes and procedures that are used in daily activities.” PLAINTIFFS’ and Technician Employees’ performance of their duties as Technician Employees was and is on a daily and weekly basis comprised primarily of driving to sites and performing routine computer hardware installation, troubleshooting and/or repair, which involves following established company protocol and procedures according to QLX/WWT’s pre-established guidelines. In order for QLX/WWT to deliver consistent service across the country, these duties are necessarily repetitive and routine and have preset guidelines to which PLAINTIFFS and other Technician Employees must adhere. PLAINTIFFS and Technician Employees perform essentially the same functions on a daily basis at different locations and the preset duties are repetitive and routine.

28. At minimum, Technician Employee class members, including PLAINTIFFS, worked in excess of 40 hours per week at performing work for QLX/WWT. However, many of these hours were worked, prior to actually going on a service call. Technician Employees had to drive to designated sites, such as DSL locations, to pick up and drop off parts to perform their work. Technician Employees spent countless hours on the QLX/WWT internet portal downloading, updating, and closing assignments, and many hours calling clients to set up appointments, picking up and dropping off parts, and filling out

1 paperwork accompanying the assignments—all of which were not figured into the per incident rate or  
2 otherwise compensated by QLX/WWT. Technician Employees were paid compensation of a piece or  
3 per incident basis according to the number of closed tickets or calls performed in a day. There was no  
4 practical administrative difficulty of recording the additional time spent performing the pre- and post-  
5 repair activities. PLAINTIFFS spent a significant and aggregate amount of time performing these pre-  
6 and post-repair activities. And, the regularity of these pre-and post-repair activities was substantial.

7         29. In order to perform their duties, Technician Employees needed and were required to  
8 provide their own automobiles with additional accident insurance, cell phones, laptops, internet access,  
9 cleaning supplies, tools, paper, printer and printing materials. QLX/WWT paid their Technician  
10 Employees a per incident payment which was supposed to compensate the employee for hours worked  
11 on the assignment, travel time, parking and gas. No additional reimbursements were provided for other  
12 out-of-pocket expenses, which included, but was not limited to wear and tear on their personal  
13 automobiles, additional accident insurance premiums, and other work-related expenses actually incurred  
14 by Technician Employees as listed above. This lump-sum method was insufficient to provide full  
15 reimbursement for actual business-related expenses necessarily incurred under section 2802 of the  
16 California Labor Code and allowed QLX/WWT to unlawfully pass operating expenses onto their  
17 employees.

18         30. Because of their duties, pay provisions and the nature of this position, the Technician  
19 Employee class members, including PLAINTIFFS, do not fall within any of the exemptions to the  
20 minimum wage and overtime pay requirements of the FLSA, 29 U.S.C. §§ 206, 207, or the California  
21 Labor Code provisions regarding payment of minimum wage, overtime, meal periods, rest breaks, and  
22 waiting time penalties.

### 23         **Failure to Pay Overtime Compensation to Technician Employees**

24         31. As noted above, in conformance with the policy and practice of Defendants, the  
25 Technician Employee class members, including PLAINTIFFS, are generally required to work in excess  
26 of eight (8) hours a day, Monday through Friday. As a matter of company policy and practice,  
27 QLX/WWT required Technician Employees, including PLAINTIFFS, to work a minimum of four  
28 assignments in a different day at different sites that are geographically dispersed, and thus required

1 PLAINTIFFS to drive extensively in their personal vehicles. Before beginning work, Technician  
2 Employees were required to log onto QLX/WWT's computer system, download jobs, contact the  
3 individuals and schedule a time to perform the repair. There were also required to drive to a central pick-  
4 up point to retrieve and return repair parts. After completing the work at the specified sites each day,  
5 PLAINTIFFS were required to close out the calls/assignments for the day and then prepare the  
6 paperwork to set up their route and work for the next day, which required an additional 1-2 hours of  
7 paperwork at the end of the day. There was no practical administrative difficulty of recording the  
8 additional time spent performing the pre- and post-repair activities. PLAINTIFFS spent a significant and  
9 aggregate amount of time performing these pre- and post-repair activities. And, the regularity of these  
10 pre-and post-repair activities was substantial. PLAINTIFFS and the class members regularly work in  
11 excess of forty (40) hours per week.

12 32. Accordingly, and including when Technician Employees were paid on a per incident  
13 basis, Defendants had, and continue to have, a willful policy and practice of requiring their Technician  
14 Employees, including PLAINTIFFS, to work substantially in excess of forty (40) hours per week without  
15 paying them proper overtime compensation as required by the FLSA, 29 U.S.C. § 207. Defendants also  
16 had, and continue to have, a policy and practice of requiring their Technician Employees, including  
17 PLAINTIFFS, to work hours substantially in excess of eight (8) hours per day and forty (40) hours per  
18 week without paying them proper overtime compensation as required by California Labor Code section  
19 510. When paid on a per incident basis, PLAINTIFFS and the Technician Employee class members do  
20 not, and did not, receive any additional compensation for hours worked in excess of eight (8) hours per  
21 day and forty (40) hours per week. In addition to violating the FLSA, 29 U.S.C. § 207, and California  
22 Labor Code section 510, this practice also constitutes a separate and independent violation of California  
23 Business & Professions Code section 17200 since it constitutes an unlawful and unfair business practice.

#### 24 **Denial of Meal Periods to Technician Employees**

25 33. During the Liability Period, Defendants had, and continue to have, a policy and practice  
26 of requiring the Technician Employee class members, including PLAINTIFFS, to work in excess of five  
27 (5) hours per day without affording them a proper meal period of at least 30 minutes during which they  
28 were relieved of all duties. Technician Employees were also regularly required by Defendants to work



1 in excess of ten (10) hours per day without being afforded an additional, second meal period of at least  
2 30 minutes during which they were relieved of all duties. This policy and practice does not comply with  
3 California Labor Code sections 226.7 and 512, and IWC Wage Order Nos. 4-2000 and 4-2001, and  
4 also constitutes a separate and independent violation of California Business & Professions Code section  
5 17200 since it constitutes an unlawful and unfair business practice.

#### 6 **Denial of Rest Breaks to Technician Employees**

7 34. During the Liability Period, Defendants had and continue to have a policy and practice  
8 of failing to provide PLAINTIFFS uninterrupted rest periods of not less than ten (10) minutes. This  
9 policy and practice does not comply with California Labor Code sections 226.7 and 516 and IWC Wage  
10 Order 4-2001, and also constitutes a separate and independent violation of California Business &  
11 Professions Code section 17200 since it constitutes an unlawful and unfair business practice.

#### 12 **Failure to Pay Minimum Wages and “Off-the-Clock” Work**

13 35. During the Liability Period, Defendants had, and continue to have, a policy and practice  
14 of failing to pay Technician Employee class members, including PLAINTIFFS, for all hours worked, and  
15 at wage rates that were equal to the California minimum wage rate then in effect, when those wages were  
16 due. Technician Employee class members, including PLAINTIFFS, were paid on a per incident basis.  
17 Before beginning work any calls, Technician Employees, including PLAINTIFFS, were required to log  
18 into QLX/WWT’s computer system, download jobs, contact the clients and schedule a time to perform  
19 the repair. They were also required to drive to a central pick-up point to retrieve and drop-off repair  
20 parts. There was no practical administrative difficulty of recording the additional time spent performing  
21 the pre- and post-repair activities. PLAINTIFFS spent a significant and aggregate amount of time  
22 performing these pre- and post-repair activities. And, the regularity of these pre-and post-repair activities  
23 was substantial. However, the time spent performing these mandatory duties was not recorded and not  
24 inclusive of the per incident rate and constitutes time worked “off-the-clock” for which Technician  
25 Employees, including PLAINTIFFS, received no compensation. Technician Employees, including  
26 PLAINTIFFS, were also required to attend mandatory meetings for which they were not compensated  
27 for their time. Additionally, and because of the minimum wage failures, QLX/WWT failed to provide  
28 Technician Employees, including PLAINTIFFS, with accurate time records and earnings statements as

1 required by Labor Code section 226 and IWC Wage Order Nos. 4-2000 and 4-2001. As a result,  
2 Technician Employee class members, including PLAINTIFFS, are entitled to unpaid wages in an amount  
3 to be determined, statutory late-pay wages and related sums, civil penalties, attorneys' fees and costs,  
4 liquidated damages and disbursements, and interest as provided by California law.

5 **Failure to Reimburse Incurred Business-Related Expenses**

6 36. During the Liability Period, Defendants had and continue to have, a policy and practice  
7 of paying its Technician Employees a per incident rate of pay for labor and expense reimbursement.  
8 However, Defendants did not reimburse employees for all necessarily incurred work-required expenses  
9 including, but not limited to gas mileage, toll road fees, wear and tear on their automobiles, additional  
10 insurance premiums, cell phone use, laptops, internet use, tools and supplies, even though these items  
11 were not only actual expenses necessarily incurred to perform their daily tasks, they were also set forth  
12 as part of the basic tool kit required for Technician Employees taking service calls for QLX/WWT.

13 37. The per incident rate does not allow Technician Employees to readily determine whether  
14 Defendants have discharged all of the legal obligations as to both wages and business expense  
15 reimbursement since the employee is unable to differentiate between wages and expense reimbursements.  
16 However, in comparison to the expenses incurred by Technician Employees, the enhanced per incident  
17 rate is inadequate and fails to sufficiently and fully reimburse the employee for expenses that were  
18 mandatory. Defendants have also never conducted any study or analysis to determine whether or not the  
19 per incident compensation payments adequately reimburse Plaintiffs for the expenses they actually and  
20 necessarily incurred while working for Defendants.

21 38. In compensating Plaintiffs pursuant to its per incident method, Defendants calculated  
22 taxable withholding based on the entire lump-sum rate payable under its plan. As a result, Plaintiffs paid  
23 taxes on both the amount intended by Defendants as wages as well as the amount intended to reimburse  
24 Plaintiffs for incurred business-related expenses. The resulting overpayment of taxes reduces the  
25 intended reimbursement to an amount not accounted for by Defendants so that its lump-sum method does  
26 not and cannot fully reimburse Plaintiffs for expenses as required by California law. In addition to  
27 violating California Labor Code section 2802, this constitutes an unlawful and unfair business practice  
28 under California Business & Professions Code sections 17200-17208.

**Failure to Timely Pay Wages and Overtime Compensation Upon Termination**

39. During the Liability Period, Defendants had, and continue to have, a policy and practice of not timely paying overtime compensation and other related wages and penalties due and owing to the Technician Employee class members, including PLAINTIFFS, immediately or within 72 hours of the conclusion of their employment with Defendants. This policy and practice does not comply with California Labor Code section 201-203 and imposes upon the employer a penalty and a concomitant wage payment to each such effected employee under California Labor Code section 203.

**Failure to Furnish to Technician Employees Itemized Wage Statements**

40. During the Liability Period, Defendants had, and continue to have, a policy and practice of knowingly and intentionally failing to furnish to Technician Employee class members to their injury, including PLAINTIFFS to their injury, at the time of each payment of wages, an itemized statement in writing showing all of the information required by California Labor Code section 226, subdivision (a), including, but not limited to, the following: (1) the total hours actually worked by Technician Employees, (2) the method or formula that identifies the amount of the combined employee compensation payment that is intended to provide expense reimbursement, (3) all true regular and overtime rates in effect during the pay period and the corresponding correct number of hours worked at each rate by Technician Employees, and (4) what portion of compensation was intended to reimburse Technician Employees for business-related expenses. Defendants' per incident method of compensation does not identify which portion of Plaintiffs' compensation is wages and which portion is intended to reimburse plaintiffs' for incurred business-related expenses. California law further requires an employer utilizing a lump-sum compensation plan to establish some means for the employee to identify the portion of overall compensation that is intended as expense reimbursement. (Cal. Lab. Code, § 2802.) In addition to violating California Labor Code sections 226, subdivision (a) and 2802, this constitutes an unlawful and unfair business practice under California Business & Professions Code sections 17200-17208.

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**VI. CLASS ACTION ALLEGATIONS**

41. PLAINTIFFS bring this action as a class action pursuant to Federal Rules of Civil Procedure, rules 23(a) and 23(b)(3) on behalf of themselves and the following class and subclasses of employees and former employees of Defendants who, within the Liability Period, have worked as Technician Employees:

(a) All Technician Employees who were required or permitted to work in excess of forty (40) hours per week without being paid overtime compensation in violation of the FLSA, 29 U.S.C. § 207, and California Business & Professions Code section 17200;

(b) All Technician Employees who were required or permitted to work in excess of eight (8) hours per day or forty (40) hours per week without being paid overtime compensation in violation of California Labor Code section 510 and California Business & Professions Code section 17200;

(c) All Technician Employees who were required or permitted to forego meal breaks in violation of California Labor Code sections 226.7, 512, and IWC Wage Order 4-2001, and California Business & Professions Code section 17200;

(d) All Technician Employees who were required or permitted to forego rest breaks in violation of California Labor Code sections 226.7 and 516 and IWC Wage Order 4-2001, and California Business & Professions Code section 17200;

(e) All Technician Employees who were subjected to income tax withholding from their total compensation, including those amounts intended to reimburse for business-related expenses, in violation of California Labor Code section 2802 and California Business and Professions Code section 17200;

(f) All Technician Employees who terminated their employ with Defendants and who were not timely paid all final accrued wages in violation of California Labor Code sections 201-203; and

(g) All Technician Employees who were required to purchase and/or use their own automobiles, cell phones, laptops, internet provider, tools, supplies, and other expenses to necessarily discharge their employment duties, but were not sufficiently reimbursed through their per incident rate; and

1 (h) All Technician Employees who were not furnished with proper itemized wage  
2 statements in violation of California Labor Code section 226, subdivision (a) and California Business  
3 & Professions Code section 17200.

4 42. Numerosity. The potential members of the class or classes as defined are so numerous  
5 that joinder of all members of the class is impracticable. There are several hundred Technician  
6 Employees currently or previously employed by the Defendants within the Liability Period.

7 43. Commonality. There are questions of law and fact common to the class which  
8 predominate over any questions affecting only individual members of the class including, but not limited  
9 to, the following:

10 (a) Whether Defendants violated the FLSA, 29 U.S.C. § 207, and California Business  
11 & Professions Code section 17200-17208, by failing to pay proper overtime compensation to Technician  
12 Employees for hours worked in excess of forty (40) hours per week as alleged herein;

13 (b) Whether Defendants violated California Labor Code section 510, IWC Wage  
14 Order Nos. 4-2000 and 4-2001, and California Business & Professions Code sections 17200-17208, by  
15 failing to pay proper overtime compensation to Technician Employees for hours worked in excess of  
16 eight (8) hours per day or forty (40) hours per week as alleged herein;

17 (c) Whether Defendants denied Technician Employees meal breaks in violation of  
18 California Labor Code sections 226.7 and 512, IWC Wage Order Nos. 4-2000 and 4-2001, and California  
19 Business & Professions Code sections 17200-17208 as alleged herein;

20 (d) Whether Defendants denied Technician Employees rest breaks in violation of  
21 California Labor Code sections 226.7 and 516, IWC Wage Order Nos. 4-2000 and 4-2001, and California  
22 Business & Professions Code sections 17200-17208 as alleged herein;

23 (e) Whether Defendants violated California Labor Code sections 201-203 by failing  
24 to timely pay Technician Employees all overtime compensation and any other wages due at the time of  
25 termination of employment as alleged herein; and

26 (f) Whether Defendants fulfilled its reimbursement obligation under California Labor  
27 Code section 2802, by paying an enhanced per incident rate to its Technician Employees. And whether

28 / / /

1 Defendants established a method to apportion the enhanced compensation payments between  
2 compensation for labor performed and expense reimbursement;

3 (g) Whether Defendants violated California Labor Code section 226, subdivision (a),  
4 and California Business & Professions Code section 17200 by failing to furnish to Technician Employees  
5 proper itemized wage statements as alleged herein.

6 44. Typicality. The claims of the Representative PLAINTIFFS are typical of the claims of  
7 the class members. The Representative PLAINTIFFS were subject to the same violations of applicable  
8 rights under the FLSA and under California law and seek the same type of damages, restitution, and other  
9 relief on the same theories and legal grounds as those of the class members they seek to represent.

10 45. Adequacy of Representation. The Representative PLAINTIFFS will fairly and adequately  
11 represent and protect the interests of the Class members. PLAINTIFFS' counsel are competent and  
12 experienced in litigating employment class actions, consumer class actions, and other complex litigation  
13 matters, including wage and hour cases for unpaid minimum wages, overtime compensation, meal period  
14 and rest break violations, and waiting time violations similar to the present claims.

15 46. Superiority. This class action is superior to other available means for the fair and efficient  
16 adjudication of the claims of the class members. It would be virtually impossible for the class members  
17 to individually obtain redress for the wrongs done to them. Even if the individual class members could  
18 afford such individual litigation, the court system could not. Individualized litigation presents a potential  
19 for inconsistent or contrary judgments. By contrast, the class action device presents far fewer  
20 management difficulties, and provides the benefits of single adjudication, economy of scale, and  
21 comprehensive supervision by a single court.

22 47. Class certification is appropriate under Federal Rules of Civil Procedure, rule 23(b)(2)  
23 and (b)(3) because questions of law and fact common to the class members predominate over any  
24 questions affecting only individual class members. Each class member has been damaged and is entitled  
25 to recovery by reason of Defendants' unlawful and unfair policies and practices as alleged herein.

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**VII. COLLECTIVE ACTION ALLEGATIONS**

48. This action is concurrently maintainable as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b) as to claims for overtime compensation, liquidated damages or, alternatively, pre-judgment interest, and attorneys' fees and costs under the FLSA. In addition to PLAINTIFFS, numerous current and former Technician Employees are similarly situated with regard to their job duties and pay provisions. PLAINTIFFS are representative of those other employees and are acting on behalf of their interests as well as PLAINTIFFS' own interests in bringing this action. These similarly situated employees are known to Defendants and are readily identifiable and may be located through Defendants' records.

**VIII. FIRST CLAIM FOR DENIAL OF OVERTIME COMPENSATION**

[FLSA, 29 U.S.C. §§ 207, 211(c), 216 (b)]

49. PLAINTIFFS hereby incorporate by reference all prior allegations as though fully set forth hereinafter.

50. Under the FLSA, 29 U.S.C. § 207, Defendants were and are obligated to compensate PLAINTIFFS and all similarly situated Technician Employees for all hours worked in excess of forty (40) hours in a workweek. PLAINTIFFS and all similarly situated Technician Employees are not subject to any applicable exemptions from the requirement to pay overtime under federal law. During the Liability Period, PLAINTIFFS and all similarly situated Technician Employees were regularly required to work in excess of forty (40) hours per week, but were not paid for such overtime work. By failing to pay overtime compensation due to PLAINTIFFS and all similarly situated Technician Employees, Defendants willfully, knowingly, and/or recklessly violated the provisions of the FLSA which require overtime compensation to nonexempt employees.

51. As a result of Defendants' policy and practice of withholding overtime compensation, PLAINTIFFS and all similarly situated Technician Employees have been damaged in that they have not received wages due to them pursuant to the FLSA.

52. Defendants have made it difficult to account for the unpaid overtime wages earned by the Technician Employees during the applicable Liability Period because they did not make, keep, and



1 preserve the correct hours worked by such employees as required for nonexempt employees by 29 U.S.C.  
2 § 211(c). Defendants' failure to retain correct records of hours worked by Technician Employees was  
3 willful and deliberate and designed to serve their policy of unlawfully denying overtime wages to  
4 Technician Employees.

5 53. As a result of the unlawful acts of the Defendants, PLAINTIFFS and all similarly situated  
6 Technician Employees have been deprived of overtime compensation in amounts to be determined at  
7 trial, and are entitled to recovery of such amounts, liquidated damages or, alternatively, pre-judgment  
8 interest, attorneys' fees and costs, and other compensation pursuant to 29 U.S.C. § 216(b).

9  
10 **IX. SECOND CLAIM FOR DENIAL OF OVERTIME COMPENSATION**

11 [Cal. Lab. Code, §§ 510, 1194; IWC Wage Order Nos. 4-2000, 4-2001]

12 54. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
13 set forth hereinafter.

14 55. Under California Labor Code sections 510 and 1194 and IWC Wage Order Nos. 4-2000  
15 and 4-2001, Defendants were and are obligated to compensate PLAINTIFFS and Technician Employee  
16 class members premium pay for all hours worked in excess of forty (40) hours per workweek. In  
17 addition, under applicable California law as referenced, Defendants were and are obligated to  
18 compensate PLAINTIFFS and Technician Employee class members premium pay for all hours worked  
19 in excess of eight (8) hours per workday.

20 56. During the Liability Period, PLAINTIFFS and Technician Employee class members were  
21 regularly required to work in excess of forty (40) hours per week and/or eight (8) hours per day, but were  
22 not paid for such premium pay as required by California law. Technician Employees do not qualify for  
23 the highly-skilled computer-related occupation exemption or any other exemption under California law  
24 and are entitled to overtime premium compensation. PLAINTIFFS and Technician Employee class  
25 members do not, and did not, receive overtime premium compensation for hours worked in excess of  
26 eight (8) hours per day and forty (40) hours per week in violation of California Labor Code section 510.

27 57. By failing to pay overtime premium compensation due and owing to PLAINTIFFS and  
28 Technician Employee class members, Defendants willfully, knowingly, and/or recklessly violated

1 California wage and hour laws which require overtime premium compensation to nonexempt employees  
2 such as Technician Employees.

3 58. As a result of Defendants' policy and practice of withholding overtime premium  
4 compensation as alleged herein, PLAINTIFFS and Technician Employee class members have been  
5 damaged in that they have not received wages due and owing to them pursuant to California wage and  
6 hour laws.

7 59. Defendants have made it difficult to account for the unpaid overtime work performed by  
8 Technician Employees during the applicable Liability Period because they did not make, keep and  
9 preserve, through records, the correct hours worked by such employees as required for nonexempt  
10 employees by California Labor Code section 1174, subdivision (d) and IWC Wage Order Nos. 4-2000  
11 and 4-2001. Defendants' failure to retain correct records of the hours worked by PLAINTIFFS and  
12 Technician Employee class members was willful and deliberate and designed to serve Defendants' policy  
13 of unlawfully denying overtime to persons employed as Technician Employees.

14 60. As a result of the foregoing unlawful acts of Defendants, PLAINTIFFS and Technician  
15 Employee class members have been deprived and continue to be deprived of overtime premium  
16 compensation in amounts to be determined at the time of trial, and are entitled to recovery of such  
17 amounts together with interest, waiting time penalties, attorneys' fees, litigation costs, and other  
18 compensation.

19 61. PLAINTIFFS request relief as described below on behalf of themselves, all similarly  
20 situated Technician Employees, and on behalf of the general public.

21  
22 **X. THIRD CLAIM FOR FAILURE TO PAY WAGES FOR COMPENSABLE MEAL**  
23 **BREAK PERIODS**

24 [Cal. Lab. Code, §§ 226.7, 512; IWC Wage order Nos. 4-2000, 4-2001]

25 62. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
26 set forth hereinafter.

27 63. During the applicable Liability Period, PLAINTIFFS and Technician Employee class  
28 members regularly worked in excess of five (5) hours per day without being afforded a proper meal break

1 of at least 30-minutes in duration in which they were relieved of all duties, and often worked in excess  
2 of ten (10) hours per day without being afforded another such meal break, as required by California  
3 Labor Code sections 226.7 and 512, as well as IWC Wage order Nos. 4-2000 and 4-2001.

4 64. As a result of Defendants' failure to afford proper meal break periods, Defendants are  
5 liable to PLAINTIFFS and Technician Employee class members for one hour of additional pay at their  
6 regular rate of compensation for each workday that proper meal break periods were not provided,  
7 pursuant to California Labor Code sections 226.7 and 512, as well as IWC Wage order Nos. 4-000 and  
8 4-2001. PLAINTIFFS request relief as described below on behalf of themselves, all similarly situated  
9 Technician Employees, and on behalf of the general public.

10  
11 **XI. FOURTH CLAIM FOR FAILURE TO PAY WAGES FOR COMPENSABLE REST**  
12 **BREAK PERIODS**

13 [Cal. Lab. Code, §§ 226.7, 516; IWC Wage order Nos. 4-2000, 4-2001]

14 65. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
15 set forth hereinafter.

16 66. During the applicable Liability Period, PLAINTIFFS and Technician Employee class  
17 members were not provided uninterrupted rest periods of not less than ten (10) minutes, as required by  
18 California Labor Code sections 226.7 and 516, as well as IWC Wage order Nos. 4-2000 and 4-2001.

19 67. As a result of Defendants' failure to afford proper rest break periods, Defendants are liable  
20 to PLAINTIFFS and Technician Employee class members for one hour of additional pay at their regular  
21 rate of compensation for each workday that proper rest break periods were not provided, pursuant to  
22 California Labor Code sections 226.7 and 516, as well as IWC Wage order Nos. 4-000 and 4-2001.  
23 PLAINTIFFS request relief as described below on behalf of themselves, all similarly situated Technician  
24 Employees, and on behalf of the general public.

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**XII. FIFTH CLAIM FOR FAILURE TO PAY MINIMUM WAGE/“OFF THE CLOCK”**  
**WORK**

[Cal. Lab. Code, §§ 218.6, 1194, 1194.2, 1197, 1197.1]

68. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully set forth hereinafter.

69. California Labor Code section 1197 and IWC Wage Order Nos. 4-2000 and 4-2001 required Defendants to pay Technician Employee class members, including PLAINTIFFS, at the then-prevailing State of California minimum wage rate for all hours worked.

70. During the Liability Period, Defendants had, and continue to have, a policy and practice of failing to Technician Employee class members, including PLAINTIFFS, for all hours worked, and were paid at wage rates that were less than the California minimum wage rate then in effect, when those wages were due. Technician Employee class members, including PLAINTIFFS, were paid on a per incident basis. However, before beginning work any calls, Technician Employees, including PLAINTIFFS, were required to log into QLX/WWT's computer system, download jobs, contact the clients and schedule a time to perform the repair. They were also required to drive to a central pick-up point to retrieve and drop-off repair parts. However, the time spent performing these mandatory duties were not recorded and not inclusive of the per incident rate paid for each call completed and constitutes time worked "off-the-clock" for which Technician Employees, including PLAINTIFFS, received no compensation. Defendants' failure to pay Technician Employees for the time spent performing mandatory duties also resulted in Technician Employees working split-shifts without required split-shift premium pay as required by California law. Technician Employees, including PLAINTIFFS, were also required to attend mandatory meetings for which they were not compensated for their time.

71. Additionally, and because of the minimum wage failures, QLX/WWT failed to provide Technician Employees, including PLAINTIFFS, with accurate time records and earnings statements as required by Labor Code section 226 and IWC Wage Order Nos. 4-2000 and 4-2001. As a result of QLX/WWT's failure to pay Technician Employees, including PLAINTIFFS, at the minimum wage rate for all hours worked, when those wages were due, or split-shift premiums when required, PLAINTIFFS and Technician Employee class members are entitled to civil penalties, liquidated damages, interest, costs

1 and attorneys' fees pursuant to California law, including but not limited to California Labor Code  
2 sections 218.6, 1194, 1194.2, 1197, 1197.1 and IWC Wage Orders Nos. 4-2000 and 4-2001.

3  
4 **XIII. SIXTH CLAIM FOR FAILURE TO FULLY OR SUFFICIENTLY REIMBURSE**  
5 **EMPLOYEES FOR MANDATORY EXPENSES**

6 [Cal. Lab. Code, §§ 2802, 2804]

7 72. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
8 set forth hereinafter.

9 73. California Labor Code section 2802 requires an employer to indemnify his or her  
10 employee for all necessary expenditures or losses incurred by the employee in direct consequence of the  
11 discharge of his or her duties, or of his or her obedience to the directions of the employer. California  
12 Labor Code section 2804 expressly prohibits waiver of section 2802, making any contract or agreement,  
13 express or implied, made by any employee to waive its benefits, null and void.

14 74. During the Liability Period, QLX/WWT had and continues to have, a policy and practice  
15 of paying its Technician Employees a per incident rate to pay for their labor and business-related  
16 expenses. However, QLX/WWT did not reimburse employees for all necessarily incurred work-required  
17 expenses including, but not limited to gas mileage, toll road fees, wear and tear on their automobiles,  
18 additional insurance premiums, cell phone use, laptops, internet use, tools and supplies, even though  
19 these items were not only actual expenses necessarily incurred to perform their daily tasks, they were  
20 also set forth as part of the basic tool kit required for Technician Employees taking service calls for  
21 QLX/WWT.

22 75. The per incident rate does not allow Technician Employees to readily determine whether  
23 QLX/WWT has discharged all of its legal obligations as to both wages and business expense  
24 reimbursement since the employee is unable to differentiate between wages and expense reimbursements.  
25 However, in comparison to the expenses incurred by Technician Employees, the enhanced per incident  
26 rate is inadequate and fails to sufficiently and fully reimburse the employee for expenses that were  
27 mandatory. QLX/WWT never conducted any study or analysis to determine whether or not their per  
28 incident compensation payments adequately reimburse PLAINTIFFS for the expenses they actually and

1 necessarily incurred while working for QLX/WWT. As a result of Defendants' policy and practice of  
2 paying per incident rate without establishing a method to apportion the enhanced compensation payments  
3 between compensation for labor performed and expense reimbursement, QLX/WWT has made it difficult  
4 to account for the unpaid expense reimbursements.

5 76. California law also requires an employer utilizing a lump-sum compensation plan to  
6 account for any tax consequences that result from the employer's choice of reimbursement method to  
7 ensure that employees are reimbursed for all incurred expenses. In compensating Plaintiffs pursuant to  
8 its per incident method, QLX/WWT calculated taxable withholding based on the entire lump-sum rate  
9 payable under its plan. As a result, Plaintiffs paid taxes on both the amount intended by QLX/WWT as  
10 wages as well as the amount intended to reimburse PLAINTIFFS for incurred business-related expenses.  
11 The resulting overpayment of taxes reduces the intended reimbursement to an amount not accounted for  
12 by QLX/WWT so that its lump-sum method does not and cannot fully reimburse PLAINTIFFS and  
13 Technician Employee class members for expenses as required by California law.

14 77. PLAINTIFFS and Technician Employee class members have been deprived, and continue  
15 to be deprived of full reimbursement for expenses necessarily incurred in amounts to be determined at  
16 the time of trial and are entitled to recovery of such amounts together with interest, waiting time  
17 penalties, attorneys' fees, litigation costs, and other compensation. PLAINTIFFS request relief as  
18 described below on behalf of themselves, all similarly situated Technician Employees, and on behalf of  
19 the general public.

20  
21 **XIV. SEVENTH CLAIM FOR FAILURE TO PAY ALL FINAL ACCRUED WAGES AT**  
22 **THE TIME OF TERMINATION**

23 [Cal. Lab. Code, §§ 201-203]

24 78. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
25 set forth hereinafter.

26 79. California Labor Code sections 201 and 202 require QLX/WWT to pay all compensation  
27 due and owing to all former Technician Employees, including PLAINTIFFS, at the time employment  
28 is terminated. California Labor Code section 203 provides that if an employer willfully fails to pay

1 compensation promptly upon discharge or resignation, as required under sections 201 and 202, then the  
2 employer is liable for statutory penalties in the form of continued compensation for up to thirty (30)  
3 workdays.

4 80. During the Liability Period, QLX/WWT willfully failed to pay PLAINTIFFS and  
5 Technician Employee class members all wages due upon termination of employment as required under  
6 California Labor Code sections 201-203. As a result, QLX/WWT is liable to PLAINTIFFS and  
7 Technician Employee class members for the statutory penalties as set forth pursuant to California Labor  
8 Code section 203. PLAINTIFFS request relief as described below on behalf of themselves, all similarly  
9 situated Technician Employees, and on behalf of the general public.

10  
11 **XV. EIGHTH CLAIM FOR LATE PAYMENT OF FINAL ACCRUED WAGES**

12 [Cal. Lab. Code, §§ 201-203]

13 81. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
14 set forth hereinafter.

15 82. As a separate and distinct cause of action, PLAINTIFFS allege that when their  
16 employment with QLX/WWT ended, QLX/WWT failed to comply with their obligations regarding the  
17 timely payment of final pay in violations of California law, including but not limited to, Labor Code  
18 sections 201, 202, 203, and 218.6, and IWC Wage Orders 4-2000 & 4-2001. When PLAINTIFFS and  
19 Technician Employees were discharged, QLX/WWT failed to immediately pay all accrued wages as  
20 required by Labor Code section 201, and when PLAINTIFFS and Technician Employees resigned,  
21 QLX/WWT failed to timely pay all accrued wages as required by Labor Code section 202. Instead,  
22 QLX/WWT paid PLAINTIFFS and Technician Employees their accrued wages at a date beyond that  
23 proscribed by California law, but without compensating PLAINTIFFS and Technician Employees for  
24 the failure to timely pay accrued wages as mandated by Labor Code section 203. QLX/WWT's failure  
25 to timely pay final accrued wages to PLAINTIFFS and Technician Employees was willful, and continued  
26 for a period of time to be determined.

27 83. Because of QLX/WWT's willful failure to timely make payment of wages to  
28 PLAINTIFFS and Technician Employees when due, PLAINTIFFS and Technician Employees are due



late-pay wages for up to 30 days, in amounts to be determined at the time of trial. PLAINTIFFS have been required to bring this action on their behalf and on behalf of Technician Employees to recover late-pay wages, and statutory wages and related sums as provided by California law, including but not limited to, California Labor Code sections 201, 202, and 203 and IWC Wage Orders 4-2000 & 4-2001.

84. As a result of QLX/WWT's actions, PLAINTIFFS and Technician Employees seek all late-pay wages, statutory wages and related sums, civil penalties, plus attorneys' fees and costs, interest, and disbursements for themselves and all Technician Employees whose employment ended within the applicable statutory period prior to the filing of this action and who were not paid all wages when required by California law, including but not limited to, Labor Code sections 201, 202, 203, and IWC Wage Orders 4-2000 & 4-2001.

#### **XVI. NINTH CLAIM FOR FAILURE TO FURNISH ITEMIZED WAGE STATEMENTS**

[Cal. Lab. Code, § 226, subd. (a)]

85. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully set forth hereinafter.

86. Under California Labor Code section 226, subdivision (a), Defendants were and are obligated to furnish to all Technician Employees, including PLAINTIFFS, at the time of each payment of wages, either as a detachable part of the check, draft, or voucher paying the wages, or separately when wages were paid by personal check or cash, an itemized statement in writing showing the items of information delineated in California Labor Code section 226, subdivision (a).

87. During the Liability Period, QLX/WWT had, and continues to have, a policy and practice of knowingly and intentionally failing to furnish to Technician Employees, including PLAINTIFFS, at the time of each payment of wages, an itemized statement in writing showing all of the information required by California Labor Code section 226, subdivision (a), including, but not limited to, the following: (1) the total hours actually worked by Technician Employees; (2) the method or formula that identifies the amount of the combined employee compensation payment that is intended to provide expense reimbursement, (3) all applicable regular and overtime rates in effect during the pay period and the corresponding number of hours actually worked at each hourly rate by Technician Employees, and

1 (4) what portion of compensation was intended to reimburse Technician Employees for business-related  
2 expenses.

3 88. As a result of the foregoing unlawful acts of QLX/WWT, PLAINTIFFS and all other  
4 Technician Employee class members have suffered injury and are entitled to recover from QLX/WWT  
5 pursuant to California Labor Code section 226, subdivision (e), and hereby seek to recover, the greater  
6 of all actual damages or statutory penalties in the amount of fifty dollars (\$50.00) per employee for the  
7 initial pay period in which a violation occurred and one hundred dollars (\$100.00) per employee for each  
8 violation in a subsequent pay period, not exceeding an aggregate statutory penalty of four thousand  
9 dollars (\$4,000.00) per employee, in addition to an award of costs and reasonable attorneys' fees.  
10 PLAINTIFFS request relief as described below on behalf of themselves, all similarly situated Technician  
11 Employees, and on behalf of the general public.

12  
13 **XVII. TENTH CLAIM FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES**

14 [Cal. Bus. & Prof. Code, §§ 17200-17208]

15 89. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
16 set forth hereinafter.

17 90. QLX/WWT'S policy and practice of failing to furnish itemized wage statements and  
18 failing to pay legally required overtime compensation, wages for compensable meal periods and rest  
19 breaks, and indemnity for expenditures incurred in the discharge of business-related duties as required  
20 by the FLSA and/or California law constitutes unfair, unlawful, or fraudulent business activity prohibited  
21 by the UCL, California Business & Professions Code sections 17200-17208.

22 91. As a result of these unfair, unlawful, or fraudulent acts and practices, QLX/WWT has  
23 reaped unfair benefits and illegal profits at the expense of PLAINTIFFS and the Technician Employee  
24 class members. This has, in turn, provided QLX/WWT with an anti-competitive advantage when  
25 compared to those businesses that have complied with the applicable wage and hour laws. Additionally,  
26 QLX/WWT should be enjoined from continuing the aforementioned violations.

27 92. QLX/WWT must make restitution, disgorge themselves of all ill-gotten gains, and/or be  
28 subject to other equitable relief pursuant to California Business & Professions Code section 17203. All

1 such remedies are cumulative of relief under other laws, pursuant to California Business & Professions  
2 Code section 17205. PLAINTIFFS and all other persons employed or formerly employed by Defendants  
3 as Technician Employees request the relief as described herein.

4  
5 **XIII. ELEVENTH CLAIM FOR REPRESENTATIVE ACTION ON BEHALF OF ALL**  
6 **EMPLOYEES FOR VIOLATION OF LABOR CODE SECTION 2699**

7 **(As against all Defendants)**

8 [Cal. Lab. Code, §§ 2698 et seq.]

9 93. PLAINTIFFS hereby incorporate by this reference all prior allegations as though fully  
10 set forth hereinafter.

11 94. PLAINTIFFS and Technician Employee class members allege that they are “aggrieved  
12 employees” who are or were employed by Defendants as non-exempt hourly employees and seek the  
13 relief requested herein on behalf of themselves and all other current and former employees of Defendants  
14 pursuant to Labor Code section 2699 et seq. The policies, acts and practices heretofore described were  
15 and are an unlawful business act or practice because Defendants’ failure to pay wages and compensation  
16 for work without rest and meal period breaks, failure to pay wages and compensation for overtime hours  
17 and failure to provide accurate wage statements and maintain accurate time records for PLAINTIFFS and  
18 the other members of the class violate applicable Labor Code sections and give rise to statutory penalties  
19 as a result of such conduct, including but not limited to penalties as provided by Labor Code sections  
20 221, 226, 226.7, 558, 1174 and 1194, and applicable IWC Wage Orders. PLAINTIFFS, as aggrieved  
21 employees, hereby seek recovery of civil penalties as prescribed by the Labor Code Private Attorney  
22 General Act of 2004 on behalf of themselves and other current and former employees of Defendants  
23 which comprise the class, against whom one or more of the violations of the Labor Code was committed.  
24 In addition, PLAINTIFFS, as aggrieved employees, hereby seek recovery of civil penalties as prescribed  
25 by the Labor Code Private Attorney General Act of 2004 on behalf of the State of California and/or the  
26 Labor and Welfare Development Agency (“LWDA”), to the fullest extent available under the law.  
27 PLAINTIFFS have complied with all of the notice requirements of Labor Code section 2699.3.

28 ///

1           95.     On or about January 26, 2009, Plaintiff George Schulz gave written notice by certified  
2 mail to the LWDA and the employer of the specific provisions of the California Labor Code alleged to  
3 have been violated and his desire to amend the action to seek on behalf of himself and all other aggrieved  
4 employees civil penalties under subdivisions (a) and (f) of Labor Code section 2699 for Defendants'  
5 violations of various provisions listed in Labor Code section 2699.5. Plaintiff Schulz' notice to the  
6 LWDA, made pursuant to California Labor Code section 2699.3, subdivision (a), complied fully with  
7 the requirements of the Code and provided notice of the specific provision of the California Labor Code  
8 alleged to have been violated, as well as the facts and theories which support the alleged violations. On  
9 or about February 19, 2009, Plaintiff Schulz received notice that the LWDA does not intend to  
10 investigate Plaintiff's allegations. (A true and correct copy of this February 19, 2009 letter from the  
11 LWDA is attached hereto as Exhibit "1.") Pursuant to Labor Code section 2699.3, Plaintiff Schulz may  
12 now commence a civil action pursuant to Labor Code section 2699 as a matter of right.

13           96.     On or about August 7, 2009, Plaintiff Pablo Cardona gave written notice by certified mail  
14 to the LWDA and the employer of the specific provisions of this Code alleged to have been violated and  
15 his desire to amend the action to seek on behalf of himself and all other aggrieved employees civil  
16 penalties under subdivisions (a) and (f) of Labor Code section 2699 for Defendants' violations of various  
17 provisions listed in Labor Code section 2699.5. Plaintiff Cardona's notice to the LWDA, made pursuant  
18 to California Labor Code section 2699.3, subdivision (a), complied fully with the requirements of the  
19 California Labor Code and provided notice of the specific provision of the California Labor Code alleged  
20 to have been violated, as well as the facts and theories which support the alleged violations. On or about  
21 September 23, 2009, Plaintiff Cardona received notice from the LWDA that it does not intend to  
22 investigate the alleged claims thereby giving Plaintiff Cardona the right to proceed with a representative  
23 action. (A true and correct copy of this September 23, 2009 letter from the LWDA is attached hereto as  
24 Exhibit "2.") Pursuant to Labor Code section 2699.3, Plaintiff Cardona may now commence a civil  
25 action pursuant to section 2699 as a matter of right.

26           97.     PLAINTIFFS allege that Defendants' company-wide plan and scheme to reduce operating  
27 expenses by illegally failing to properly compensate its employees, violates various Labor Code sections,  
28 including but not limited to, 200, 201, 202, 203, 204, 208, 210, 216, 218.6, 225.5, 226, 226.3, 226.7,

227.7, 450, 500, 510, 512, 516, 558, 1174, 1174.5, 1194, 1197, 1198, 1199, 2802, 2926, 2927, and IWC Wage Orders including but not limited to Nos. 4-2000 and 4-2001. Pursuant to Labor Code section 2699 et seq., PLAINTIFFS and Technician Employee class members seek the recovery of all statutory penalties for Defendants' violation of any provision of the California Labor Code on behalf of all current and former employees of Defendants against whom one or more of the alleged violations was committed within the applicable limitations period.

98. In addition to any other civil or statutory penalty, PLAINTIFFS and Technician Employee class members seek, pursuant to Labor Code section 2966, a statutory penalty of \$100 for each aggrieved employee per pay period for Defendants' first violation of any provision of the Labor Code, and \$200 for each aggrieved employee per pay period for any subsequent violation by QLX/WWT of any provision of the Labor Code. PLAINTIFFS and Technician Employees also seek an award of reasonable attorneys' fees and costs.

### **XIX. PRAYER FOR RELIEF**

**WHEREFORE, PLAINTIFFS**, on behalf of themselves, all present and former similarly situated Technician Employees, and on behalf of the general public, request the following relief:

1. A determination that this action may proceed and be maintained by PLAINTIFFS as a class action pursuant to Federal Rules of Civil Procedure, rules 23(a) and 23(b)(3) on behalf of themselves and the class or classes of employees alleged herein;

2. The issuance of notice pursuant to Federal Rules of Civil Procedure, rule 23 to all Technician Employee class members who worked for Defendants within the four (4) year period preceding the filing of this Complaint in accordance with the statute of limitations of the UCL, California Business & Professions Code sections 17200-17208;

3. A declaratory judgment that Defendants have violated the overtime provisions of the FLSA, 29 U.S.C. § 207, as to the PLAINTIFFS and all similarly situated Technician Employee class members;

4. A declaratory judgment that Defendants have violated California Labor Code sections 510 and 1194 and IWC Wage Order Nos. 4-2000 and 4-2001 by failing to provide overtime compensation

1 to PLAINTIFFS and the Technician Employee class members for all hours worked in excess of forty (40)  
2 hours per workweek and/or eight (8) hours per workday when paid on a commission basis;

3 5. A declaratory judgment that Defendants have violated California Labor Code sections  
4 226.7, 512, and 516 as well as IWC Wage order Nos. 4-2000 and 4-2001, by failing to afford  
5 PLAINTIFFS and the Technician Employee class members proper meal and rest break periods;

6 6. A declaratory judgment that Defendants have willfully violated California Labor Code  
7 sections 201-203 by failing to pay overtime compensation and other unpaid wages due and owing to  
8 PLAINTIFFS and the Technician Employee class members at the time of termination of their  
9 employment, thereby subjecting Defendants to liability for statutory waiting time penalties;

10 7. A declaratory judgment that Defendants have violated California Labor Code section 2802  
11 by failing to provide some method or formula to identify the amount of the combined employee  
12 compensation payment that is intended to provide expense reimbursement;

13 8. A declaratory judgment that Defendants have violated California Labor Code section 2802  
14 by failing to provide full and/or sufficient reimbursement for out-of-pocket expenses that the Technician  
15 Employees necessarily incurred, owing to PLAINTIFFS and Technician Employee class members;

16 9. A declaratory judgment that Defendants have violated California Labor Code section 226,  
17 subdivision (a), by knowingly and intentionally failing to furnish to PLAINTIFFS and Technician  
18 Employee class members, to their injury, itemized wage statements in compliance with California Labor  
19 Code section 226, subdivision (a), thereby subjecting Defendants to liability for actual damages or  
20 statutory penalties under California Labor Code section 226, subdivision (e);

21 10. A declaratory judgment that Defendants have violated the record keeping provisions of  
22 the FLSA, 29 U.S.C. § 211(c), as to PLAINTIFFS and all similarly situated Technician Employee class  
23 members;

24 11. A declaratory judgment that Defendants have violated the record keeping provisions of  
25 California Labor Code section 1174, subdivision (d) and IWC Wage Order Nos. 4-2000 and 4-2001 as  
26 to PLAINTIFFS and Technician Employee class members;

27 12. A declaratory judgment that Defendants' violations of the FLSA and California wage and  
28 hour laws were willful and without good faith justification;

1           13.     A declaratory judgment that Defendants have violated the provisions of California  
2 Business & Professions Code sections 17200-17208 by failing to pay overtime compensation under the  
3 FLSA and California law, failing to pay wages for compensable meal break periods as required by  
4 California law, and failing to furnish proper itemized wage statements in violation of California law;

5           14.     A declaratory judgment that Defendants' violations of California Business & Professions  
6 Code sections 17200-17208 were willful and without good faith justification;

7           15.     A declaratory judgment that, with regard to PLAINTIFFS' claims under California  
8 Business & Professions Code sections 17200-17208, PLAINTIFFS and similarly situated Technician  
9 Employee class members are entitled to a four (4) year statute of limitations;

10          16.     A permanent injunction enjoining Defendants and any and all persons acting in concert  
11 or in participation with Defendants from directly or indirectly committing the unlawful, unfair, and  
12 deceptive business acts and practices as alleged above, pursuant to the UCL;

13          17.     An award to PLAINTIFFS and Technician Employee class members of damages in the  
14 amount of unpaid wages under California law, including liquidated damages under California Labor  
15 Code section 1194.2 and interest subject to proof at the time of trial;

16          18.     An award to PLAINTIFFS and all similarly situated Technician Employee class members  
17 for damages in the amount of unpaid overtime wages under the FLSA, including liquidated damages or,  
18 in the alternative, pre-judgment interest subject to proof at the time of trial;

19          19.     An award to PLAINTIFFS and all Technician Employee class members of damages in  
20 the amount of unpaid overtime compensation and wages under California law, including interest thereon  
21 subject to proof at the time of trial;

22          20.     An award to PLAINTIFFS and all Technician Employee class members for one hour of  
23 compensation for each day they did not receive proper meal break periods under California Labor Code  
24 sections 226.7 and 512 and IWC Wage Order Nos. 4-2000 and 4-2001;

25          21.     An award to PLAINTIFFS and all Technician Employee class members for one hour of  
26 compensation for each day they did not receive proper rest break periods under California Labor Code  
27 sections 226.7 and 516 and IWC Wage Order Nos. 4-2000 and 4-2001;

28     ///



1           22.     An award to PLAINTIFFS and all Technician Employee class members for payments due  
2 to them as statutory waiting time penalties under California Labor Code sections 201-203;

3           23.     An award to PLAINTIFFS and all Technician Employee class members for the greater  
4 of all actual damages or the statutory penalties provided in California Labor Code section 226,  
5 subdivision (e) subject to proof at the time of trial;

6           24.     An award to PLAINTIFFS and all other aggrieved Technician Employee class members  
7 of civil penalties under California Labor Code section 558, subdivision (a) for Defendants' violations of  
8 the overtime pay requirements of California Labor Code sections 510 and 1194 and IWC Wage Order  
9 Nos. 4-2000 and 4-2001 subject to proof at the time of trial;

10          25.     An award to PLAINTIFFS and all similarly situated Technician Employee class members  
11 of liquidated damages in an amount equal to the overtime compensation and unpaid meal break period  
12 wages shown to have been denied to PLAINTIFFS pursuant to 29 U.S.C. § 216(b) and liquidated  
13 damages in an equal amount or, if liquidated damages are not awarded, then in the alternative  
14 pre-judgment interest;

15          26.     An award to PLAINTIFFS and all Technician Employee class members of restitution  
16 and/or disgorgement of all amounts owed for Defendants' failure to pay legally required wages, overtime  
17 compensation, wages for compensable meal break and rest break periods, failure to indemnify  
18 expenditures under California Labor Code section 2802, and failure to furnish itemized wage statements  
19 under California Labor Code section 226, subdivision (a), in an amount according to proof, pursuant to  
20 the UCL;

21          27.     An award to PLAINTIFFS and all similarly situated Technician Employee class members  
22 of all civil penalties recoverable pursuant to California Labor Code section 2699, et seq., for all pay  
23 periods in which a violation of the Labor Code exists.

24          28.     An award to PLAINTIFFS and all similarly situated Technician Employee class members  
25 of reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b), California Labor Code sections  
26 226, subdivision (e), 1194, 2699, subdivision (g)(1), California Civil Code section 1021.5. Neither this  
27 prayer nor any allegation or prayer herein are to be construed as a request for attorneys' fees or costs  
28 available under California Labor Code section 218.5.

29. An award of pre and post-judgment interest; and,

30. An award of such other and further relief as this Court may deem just and appropriate.

DATED: July 27, 2010

**BLUMENTHAL, NORDREHAUG & BHOWMIK**

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**DEMAND FOR JURY TRIAL**

PLAINTIFFS, on behalf themselves and all other similarly situated employees and former employees of the Defendants, hereby demand trial of these claims by jury to the extent authorized by law.